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No.: ICC-02/04-01/05
Date: 20 February 2023

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane

SITUATION IN UGANDA

IN THE CASE OF *THE PROSECUTOR* vs. *JOSEPH KONY AND VINCENT OTTI*

Public

Public Redacted Version of “Request for lifting of certain redactions in the Arrest Warrant against Joseph Kony”, ICC-02/04-01/05-445-Conf-Exp, 23 November 2022

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Other

1. The Prosecution requests the Chamber to lift most redactions in the current Public Redacted Version of the Arrest Warrant against Joseph Kony¹ and publicise a new Lesser Redacted Version of the Arrest Warrant with limited redactions, as set out in the Annex.

2. The redactions to the locations, dates of incidents and other information in the Arrest Warrant are — 17 years since its issuance — no longer necessary. Limited redactions should however, remain in place to protect the integrity of the proceedings and safety, privacy and well-being of victims and witnesses.

Classification

3. In accordance with regulation 23bis(2) of the Regulations of the Court, this request and the Annex are classified confidential *ex parte*, only available to the Prosecution, because they refer to information currently classified as such. A public redacted version of the request will be filed.

Submissions

4. The Arrest Warrant against Joseph Kony was issued under seal on 8 July 2005 and updated on 27 September 2005.² On 13 October 2005, the Chamber (in a previous composition) unsealed the Arrest Warrant,³ following an application from the Prosecution.⁴ The Chamber determined that the Arrest Warrant could be made public subject to a number of redactions, which were deemed necessary for the safety and protection of victims and witnesses pursuant to article 57(3)(c) and article 68(1) of the Rome Statute (“Statute”) and rule 87 of the Rules of Procedure and Evidence. The Chamber was primarily concerned about the unpredictability of the security

¹ ICC-02/04-01/05-53 (Public Redacted Version) (“Arrest Warrant”).

² ICC-02/04-01/05-2-US-Exp and ICC-02/04-01/05-28-US-Exp. *See also* ICC-02/04-01/05-27.

³ ICC-02/04-01/05-52.

⁴ ICC-02/04-01/05-21-US-Exp.

environment in Uganda in 2005.⁵ The Chamber issued the Public Redacted Version of the Arrest Warrant on the same day.⁶

5. More than 17 years later, the basis for most of the redactions no longer exists. The Lord's Resistance Army ("LRA") moved away from Uganda, is diminished in strength and therefore no longer poses an immediate security threat to witnesses and victims in Uganda. Many LRA fighters have returned home and reintegrated into society. The camps for internally displaced persons, set up in response to LRA attacks, which were often the target of attacks during the armed conflict, have long been dismantled.

6. [REDACTED]

7. The Prosecution also notes that in the proceedings against Dominic Ongwen in the same situation, which concerned the same time period, the same armed conflict and the same armed group, the locations and dates of alleged incidents, LRA units involved and details about how the attacks unfolded were discussed publicly. This includes references to incidents included in the Arrest Warrant, two of which (attacks on Lukodi and Pajule) were also charged in the Ongwen case.⁷ Moreover, the incidents alleged in the Arrest Warrant are some of the most well-known incidents attributed to the LRA and have been the subject of extensive reporting and public discourse in the media in the past two decades.⁸

8. The Prosecution therefore proposes to lift all redactions in the current Public Redacted Version of the Arrest Warrant against Joseph Kony with the exception of

⁵ ICC-02/04-01/05-52, paras. 20-23, 27. The Prosecution notes that redactions to dates, places and characteristics of attacks were introduced by the (then) Chamber rather than upon the request of the Prosecution and that the Prosecution requested reconsideration of these redactions, which was dismissed. *See* ICC-02/04-01/05-58, ICC-02/04-01/05-141 and ICC-02/04-01/05-60.

⁶ ICC-02/04-01/05-53.

⁷ *Prosecutor v. Dominic Ongwen*, Public Redacted Version of the Trial Judgment, ICC-02/04-01/15-1762-Red, 4 February 2021. In relation to Pajule, see in particular paras. 144-158 and 1172-1383, in relation to Lukodi paras. 178-189 and 1634-1857, and for other incidents, for example, paras. 310-313, 1161, 1164-1166.

⁸ The incidents charged in the *Ongwen* case have been widely publicized also on account of ICC proceedings. For reporting on the other four incidents see, for example: [Ugandan rebels abduct 30 schoolgirls in raid](#), Irish Times, 26 June 2003 [Lwala]; [Girls escape Ugandan rebels](#), BBC, 25 June 2003 [Lwala]; [Tears As Onek Unveils Lwala Girls Monument](#), Uganda Radio Network, 19 August 2015; [Kill Every Living Thing: The Barlonyo Massacre](#), Justice and Reconciliation Project, 2009; [Rebels attack IDPs camp in Gulu district](#), Reliefweb, 17 May 2004 [Pagak]; [Rebel massacre in Ugandan camp](#), BBC, 5 February 2004 [Abia].

some specific redactions relating to sexual and gender based crimes. These limited redactions remain necessary to protect the identity of individual victims or witnesses in order to ensure their security, privacy and well-being in accordance with article 68 of the Statute. Issuing a Lesser Redacted Version of the Arrest Warrant will still protect the integrity of the Prosecution's ongoing activities in this situation and prevent adverse effects on the protection of victims and witnesses. The limited necessary redactions that should remain in place are highlighted in red in the Annex.⁹

Relief Sought

9. In accordance with the above, the Prosecution respectfully requests the Chamber to lift most redactions in the Arrest Warrant against Joseph Kony, and publicise a Lesser Redacted Version of the Arrest Warrant with limited redactions, as set out in the Annex.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a small dot.

Karim A.A. Khan KC, Prosecutor

Dated this 20th day of February, 2023
At The Hague, The Netherlands

⁹ For the convenience of the Chamber, the proposed redactions that should remain in place (highlighted in red) are marked in the confidential ex parte version of the Arrest Warrant (ICC-02/04-01/05-28-US-Exp, unsealed via Decision ICC-02/04-02/05-52), where the text of redactions proposed to be lifted is also visible.